

Introduction and Summary

On September 2nd, 2005, the FCC issued order FCC 05-163 in response to a letter sent by the American Red Cross on September 2nd, 2005. This order transferred the Rights to the toll free number 1-800-733-2767 from 800Ideas.com, Inc. ("800IDEAS") to the American Red Cross. Given the emergency nature of this request from the American Red Cross, this order was issued based almost exclusively on the representations made by the American Red Cross. Under the circumstances it is reasonable that the FCC chose to take immediate action with the belief that the representations made by the American Red Cross were well founded.

Now that the most time critical phase of disaster recovery associated with hurricane Katrina has passed, it is time to look at this issue on the whole. This Petition will refute claim made by the American Red Cross to opportunistically use that catastrophic event to force the FCC to act without proper consideration and waive long standing FCC rules with far reaching implications. Upon reviewing a more comprehensive set of facts regarding this decision, it will be clear that this unprecedented decision

should be reversed and that the Rights to the toll free number 1-800-733-2767 should be restored to 800IDEAS

Historic Use of 1-800-733-2767

In the 1980s, 800IDEAS began using the toll free number 1-800-733-2767. 800IDEAS requested the number be provisioned by their telecommunications carrier and Responsible Organization (RespOrg), Sprint. The number was found to be in "SPARE" status in the SMS/800 database and assigned to 800IDEAS's account with Sprint and immediately put in service. From that point until Sept. 2nd, 2005, 800IDEAS maintained "Customer of Record" status and the Rights to use the number. In the normal course of business, 800IDEAS transferred the traffic and RespOrg for the number to Global Crossing while maintaining the use and "Customer of Record" status for the number.

As 800IDEAS's business became more reliant on the ability to utilize multiple carriers to achieve lower telecommunication rates, 800IDEAS became a Responsible Organization. This status allowed 800IDEAS to provide a higher level of service to its clients and a broader array of enhanced toll free services. 800IDEAS became RespOrg for the number and remained "Customer of Record".

From sometime in the mid to late 1980s to 1998, over 10 years, 800IDEAS used the number nationwide. In 1998, 800IDEAS was approached by a Representative of the Atlanta Chapter of the American Red Cross. This representative pointed out that the Atlanta Chapter had no local toll free number for to aid in their local fund raising activities. He also pointed out that 1-800-733-2767 could be used to spell 1-800-RED-CROSS which they wished to use in the greater Atlanta area. 800IDEAS and the Atlanta Chapter entered into a contractual arrangement in which 800IDEAS agreed to use its telecommunications system and custom software to route callers who dialed 1-800-733-2767 from the greater Atlanta area directly to the Atlanta Chapter of the American Red Cross. This agreement was made with the specific understanding that it did not give the Atlanta Chapter any claim to the number or in any way diminish 800IDEAS's Rights to the number. In fact the language of the contract is very specific on this issue. In exchange for this routing service, the Atlanta Chapter agreed to pay 800IDEAS a small per minute fee for each call connected to the Atlanta Chapter. Four additional chapters (Massachusetts, Miami, San Diego/Imperial County, and Palm Beach) entered into similar arrangements. Meanwhile,

800IDEAS continued to use the number in the remaining parts of the country.

800IDEAS, through the use of its own hardware and software, was making this single toll free number useful to many entities. 800IDEAS earned revenue from sharing the number with these local chapters and these revenues were growing over time. 800IDEAS took pride in knowing it was providing a valuable service to local Red Cross chapters, one that the national chapter has never provided. That is the history of the toll free number for the last 20 years.

Through hurricanes, floods, famine and landslides ... through 9-11, the tsunami and every other major disaster over the last 20 years, the national chapter of the American Red Cross never used 1-800-Red-Cross. It was not until Sept. 2nd, 2005, in the wake of hurricane Katrina, amidst heated accusations that the Federal government had acted too slowly and cost hundreds of people their lives...only then did Chuck Connor and Mary Elcano of the national chapter send an "emergency request" to the FCC to waive its long standing and well thought out rules and take 800IDEAS's Rights to this number away and give them to the national chapter of the American Red Cross.

To add insult to injury, after the swift and decisive action from the FCC transferred complete control of the

number to the national chapter, the national chapter did nothing with the number. During the height of the rescue effort for Katrina victims, from Sept. 2nd through Sept. 8th, the Red Cross did not reroute the number. For six days after the FCC's emergency Friday afternoon decision, the Red Cross left the number ringing to 800IDEAS. Rerouting the number is a task that takes mere minutes. It is a normal part of managing toll free numbers. 800IDEAS is capable of rerouting traffic for a toll free number in less than 20 minutes. SBC (the carrier used by the national chapter) is certainly just as capable of rerouting the number. Yet, it did not happen. On Sept. 8th, 800IDEAS received a call from Mr. Roland from Bloomberg News inquiring about the FCC's decision. He asked when the transfer was to take place. 800IDEAS informed him that the transfer had been completed but that the national chapter of the Red Cross had not done anything with the number. Mr. Roland said he found that quite curious given the emergency nature of the action and that he would follow up with Chuck Connor to understand why. Later that day, the calls to 1-800-733-2767 finally stopped routing to 800IDEAS and the local chapters Red Cross chapters it served.

Six days after the FCC's response, the national chapter of the Red Cross rerouted the number. One would

assume the number would have been routed to the national chapters call center. In fact, the calls were routed to a dead end recording. This recording claimed all operators were busy and instructed the caller to dial 1-800-HELP-NOW. Numerous calls placed by 800IDEAS to the number at all hours of the day and night resulted in the same message, never once connecting to an operator. This course of action seems contrary to the claims made by Mr. Chuck Connor and Ms. Mary Elcano. After gaining control of what they portrayed to the FCC to be an essential asset, for six days, they took no action and after that they prevented calls to the number from getting answered by routing it to a dead end message.

Today, if you call the number, you will receive a message telling you you've reached the Katrina financial assistance hotline, that (of course) all operators are busy, and then directs you to call a local chapter or go to their website, then disconnects. The reality of the situation is that the national chapter has used hundreds of millions if not billions of dollars worth of media to educate people to dial 1-800-HELP-NOW to reach the American Red Cross. Every television, radio, print and internet news outlet covering a disaster refers people to 1-800-HELP-NOW. The President of the United States himself has

referred people to that number. As a result, 1-800-HELP-NOW receives millions of calls on a daily basis. In fact, the message to call 1-800-HELP-NOW has been conveyed so well that the national chapter of the American Red Cross cannot even answer the calls they currently receive. Thousands upon thousands of calls to 1-800-HELP-NOW went unanswered each day during the rescue efforts for Katrina victims. In contrast, during Katrina, while 800IDEAS was using 1-800-733-2767, that number received only about 2500 calls per day, most of which were routed to local Red Cross chapters who could answer the calls. In addition, most of those callers were people who called 1-800-HELP-NOW and could not get through.

Mr. Connor has opportunistically used the hurricane Katrina disaster to create a "must act now" situation forcing the FCC to issue an unprecedented emergency transfer order. He and Ms. Elcano have misrepresented the public need for such a transfer and laid down false accusations against 800IDEAS to achieve there goal of trampling the Rights of 800IDEAS and bypassing FCC rules to gain control if this number.

Rebuttal to the American Red Cross Letter

The September 2nd letter from the Ms. Elcano, a number of false claims are made. The FCC, given the limited time to examine this issue, relied upon those assertions as being factual in justifying this emergency transfer order. What follows is a point by point rebuttal of those assertions.

The first sentence of the letter state that the national chapter of the American Red Cross has been trying to obtain the right to use the number for "quite some time". My first conversation with Mr. Connor was only at the end of May this year. To my knowledge, there have been no previous letters to the FCC from the Red Cross on this issue.

She goes on to claim that the intent of the Red Cross is to use this number to implement a nationwide call-in system to help in the Katrina relief efforts. To date, the Red Cross has not done this. The number is at best a redirection message to other Red Cross contact points.

The letter continues to outline the services provided by the non-profit organization and the scale of the Katrina disaster. In paragraph 4, Ms. Elcano states, "We believe that our disaster relief coordination and fund raising efforts are hindered because this number (1-800-HELP-NOW)

does not convey the organization's name..." It would seem that the number itself has no impact on coordination efforts and its impact on fund raising is tied to people's ability to remember the number and its association. The Red Cross did not begin using 1-800-HELP-NOW by accident. There is tremendous evidence that toll free numbers which contain a call to action or a direct reference to a product or service are more effective than numbers containing an entity name (1-800-FLOWERS, 1-800-TAX-HELP, 1-800-DENTIST, etc). This is why the Red Cross chose 1-800-HELP-NOW. Clearly, the need is not to increase the number of calls during a crisis. The national Red Cross cannot answer the calls generated by 1-800-HELP-NOW. During times of non-crisis, it is not unreasonable for someone who wants to reach the Red Cross to look up their number as they would for any business they wanted to reach. There is no evidence that the American Red Cross is significantly hindered in their efforts by not using 1-800-Red-Cross, certainly not enough to warrant this unprecedented stripping of Rights from 800IDEAS

Ms. Elcano goes on to state that the rates being charged by 800IDEAS to the local Red Cross chapters were "quite high" when in fact, compared to other shared-use routing services 800IDEAS is in most cases less expensive.

She then claims that 800IDEAS "implied" that it would be willing to relinquish the toll free number to the Red Cross for \$1,000,000. That is a blatant lie. 800IDEAS is well aware of the FCC's regulations relating to toll free numbers. In fact, 800IDEAS specifically stated to Mr. Chuck Connor that, per FCC regulations, "toll free numbers cannot be bought, sold, bartered or traded." Mr. Connor responded by saying that he would take care of the FCC and that the FCC would not be a problem in this case. Without any specific understanding, 800IDEAS agreed to meet with Mr. Connor to discuss the Red Cross's use of the number.

In June of 2005, 800IDEAS their attorney Ms. Bahrambeygui met with Mr. Connor and Ms. Lane in Ms. Bahrambeygui's office. Mr. Connor began the meeting by stating he was going to include the Red Cross attorney via a conference call. This turned out to be only partially true as he also had on the phone four other attorneys which he failed to tell us were also on the line. Mr. Connor and Ms. Lane opened this meeting by reminding us if the many services provided by the Red Cross, then offered to barter their national marketing services associated with the Red Cross brand and national recognition for our "donation" in exchange for the number. During this meeting, Mr. Connor also made the statement either 800IDEAS gives him the

number or he "would take it away." After that threat and implication the Red Cross could control the FCC, 800IDEAS proposed a simple expansion of its existing service to the local Red Cross Chapters. Very specifically, 800IDEAS pointed out that it would be happy to provide service for all Red Cross chapters throughout the United States under the same agreement it had with client chapters. Mr. Connor summarily dismissed the idea and wanted nothing less than complete control of the number, no negotiations. 800IDEAS made it clear that they were under no obligation to share the number they had used for the last 18+ years with the Red Cross and would not be willing to "donate" the number. The meeting concluded with 800IDEAS open to consider any proposal from Mr. Connor outlining a legal way of achieving his goal of expanding the Red Cross's use of the number. That meeting was two and a half months before the Sept. 2nd letter to the FCC. During that time, no proposal or in fact any communication was received from Mr. Connor or anyone from the National Red Cross.

In the next paragraph, Ms. Elcano claims that "as a practical matter, only the American Red Cross can effectively use 1-800-RED-CROSS". This statement implies that the only "effective" use of a toll free number is by using the vanity spelling. It also ignores the fact that

there are other vanity spellings for the number such as 1-800-S.D.FARMS (www.sdfarms.com). Never has the assignment of the Right to a toll free number been an FCC judgment call as to who can "best" use a number. Nor has the potential mnemonic spelling been used to determine number allocation. Opening the door to such a policy would result in thousands of cases just like this one where company A thinks they have a better use for a number than company B that is currently using the number.

The next accusation Ms. Elcano makes is that 800IDEAS is violating the FCC's anti-warehousing rules. That is absurd. To start with, 800IDEAS began using the number long before the 1996 rules were adopted. 800IDEAS has always been the end user of the number. The number has always been "fully utilized" nationwide by 800IDEAS. In fact, the shared-use model developed by 800IDEAS helped ensure that more entities could take advantage of the number, not less. These unfounded accusations were simply another way for the Red Cross to raise doubts as to 800IDEAS's legitimate use of the number knowing that the FCC would not have time to investigate given the "emergency" at hand.

Conclusions

Now that the Red Cross can no longer accuse the FCC of standing in the way of their goal to provide emergency relief, it is time for the FCC to analyze the entire evidence. The American Red Cross has offered no proof that that their efforts are hampered by not using 1-800-RED-CROSS. In fact, their 20 year history of successful operation without the number is testament to quite the opposite. They have demonstrated and admitted that their current toll free access number, 1-800-HELP-NOW, is so well known that they cannot respond to all of the calls it generates. It is clear that Mr. Connor opportunistically used this disaster to create a scenario where the FCC had no choice but to act in his favor.

800IDEAS has demonstrated that for nearly 20 years it has been legitimately using the toll free number. 800IDEAS has developed a hardware and software routing system that allows it to provide valuable service to local Red Cross chapters for their local fund raising and awareness efforts.

There is no life threatening emergency need for the American Red Cross to have this number as they would have you believe. Their own actions have shown this to be true. After immediate action from the FCC, the Red Cross did

nothing for six days. Since then, the number has simply defaulted to a recording. Mr. Connor wants (not needs) this toll free number. Thousands of companies would "like" to have toll free numbers that are in use by other companies. That does not give them the right to take them.

800IDEAS has suffered dearly as a result of Mr. Connor's actions. Wired News published a story based on Mr. Connor's allegations and the fact that the FCC had acted in favor of the Red Cross request lent credibility to those statements

(<http://www.wired.com/news/hurricane/0,2904,68774,00.html>).

As a result 800IDEAS has been defamed. It has caused a loss of good will and a direct loss of revenue. 800IDEAS respectfully requests that the FCC reconsider this Order and direct the Database Service Management ("DSMI") to reassign the toll-free number 1-800-733-2767 to 800Ideas.com, Inc.

Sincerely,

David Sprouse

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